

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

In re: ST. CATHERINE HOSPITAL OF PA, LLC,	:	Chapter 7
aka ST. CATHERINE MEDICAL CENTER	:	Case No. 5-12-02073
OF FOUNTAIN SPRINGS,	:	
Debtor	:	

WILLIAM G. SCHWAB, Trustee for the Estate of	:
St. Catherine Hospital of PA, LLC,	:
Movant	:
vs.	:
INTERNAL REVENUE SERVICE,	:
PA DEPARTMENT OF REVENUE,	:
PA DEPARTMENT OF LABOR AND INDUSTRY,	:
SCHUYLKILL COUNTY TAX CLAIM BUREAU,	:
NORTH SCHUYLKILL SCHOOL DISTRICT,	:
BUTLER TOWNSHIP,	:
Respondents	:

**MOTION TO SELL REAL PROPERTY AT PUBLIC SALE
FREE AND CLEAR OF LIENS, PURSUANT TO 11 U.S.C. §363(b)(1)**

AND NOW COMES, WILLIAM G. SCHWAB, ESQUIRE, Trustee in bankruptcy in the above-captioned Chapter 7 proceeding and makes this Motion, respectfully stating in support thereof:

1. Movant, WILLIAM G. SCHWAB, ESQUIRE, is the duly appointed, qualified and acting Trustee in bankruptcy in the above-captioned proceeding, having his place of business at 811 Blakeslee Boulevard Drive East, Lehighton, Pennsylvania 18235.

2. This Court has jurisdiction of the matter pursuant to 28 U.S.C. 157 and 28 U.S.C. 1334.

3. On the date the petition was filed there existed real property located at 101 Broad Street, Ashland, Butler Township, Schuylkill County, Pennsylvania. Per Court Order dated

June 20, 2013 and filed in the United States Bankruptcy Court for the District of Wyoming in the Case of Robert M. Lane, aka Bob Lane, Case No. 11-20398, the Trustee was granted leave to sell said property.

4. The Trustee has examined the property with the Debtor as well as a proposed auctioneer, Houser Auctioneers, and has determined that it is in the best interest of the estate and creditors to offer the same for public sale.

5. The Trustee has filed an application to employ Houser Auctioneers, as auctioneer at a commission of Three (3%) percent of the gross proceeds, plus pro-rata costs of advertising and labor. A copy of the Order Granting the Application is attached hereto, made a part hereof, and marked as Exhibit "A".

6. Trustee seeks leave to sell certain real property of the above-captioned estate located at 101 Broad Street, Ashland, Butler Township, Schuylkill County, Pennsylvania, at public auction on November 29, 2013 beginning at 9:00 a.m. The sale is to be free and clear of all liens and encumbrances, with all valid liens and encumbrances to be transferred to the fund created by said sale.

7. The Trustee is basing this Motion for Sale on the currently filed Claim of Exemptions (Schedule C) of the Debtor and relying on same to make this sale cost effective to the creditors of the estate.

8. The Respondents named in the above caption, may have a recorded equitable and/or unrecorded lien(s) on the property, including the possibility of administrative claim.

9. This Motion to Sell Real Property Free and Clear of Liens and Encumbrances has been filed by the Trustee because the offer approximates the fair market value and will result in some benefit to the unsecured creditors.

10. Pursuant to 11 U.S.C. § 363(b)(1), the Trustee, after notice and a hearing, may sell property of the estate.

11. Pursuant to 11 U.S.C. § 363(f), the Trustee may sell property under subsection (b) free and clear of any interest in such property of an entity other than the estates if one of the following conditions are met:

- (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest,
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; *or*
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

12. To the extent that any objections are timely filed to the sale, the Trustee believes he will be able to satisfy one of the afore-described conditions to permit the sale to proceed under Section 363(f) of the U.S. Bankruptcy Code.

13. The Trustee further requests the Court to allow distribution of the proceeds from the sale of the real estate at settlement, pursuant to the priority of the United States Bankruptcy Court as follows:

- a. Any out-of-pocket expenses advanced by WILLIAM G. SCHWAB, ESQUIRE, in connection with the sale of the aforementioned property, and which have not been reimbursed at the time of settlement, along with a reserve of Three (3%) percent for a potential Trustee commission to be held until further Order of Court;
- b. Any notarization and/or incidental recording fees associated with the sale of the above property;

- c. Any transfer tax which is the responsibility of the seller herein;
- d. Three (3%) Percent to HOUSER AUCTIONEERS, representing the auctioneer's commission, plus the pro-rata reasonable expenses in conjunction with the sale;
- e. Any unpaid real estate taxes and other municipal claims/liens arising from property, including one (1%) percent of the real estate transfer taxes which are the responsibility of the seller herein;
- f. Any other unpaid liens shall attach to the remaining proceeds; and
- g. The balance shall be held in the Trustee's escrow account.

WHEREFORE, the Trustee prays your Honorable Court to issue a Notice to Creditors indicating on such the final date for filing answers or objections to the within motion, and following the time set for answers or objections, to enter an order granting relief to sell the aforementioned real property free and clear of all liens and encumbrances at public sale, and to allow the Trustee, WILLIAM G. SCHWAB, ESQUIRE, to execute all papers and documents necessary to effectuate said sale, and to distribute the proceeds as aforementioned.

WILLIAM G. SCHWAB & ASSOCIATES:

/s/: William G. Schwab

WILLIAM G. SCHWAB, ESQUIRE

Attorney for Trustee in Bankruptcy

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